

Federal Communications Commission

DA 97-1692

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(St. Marks and Woodville,
Florida)¹

)
)
) MM Docket No. 96-142
) RM-8829
) RM-8873
)
)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: August 6, 1997

Released: August 15, 1997

By the Chief, Allocations Branch:

1. The Commission has before it for consideration the Notice of Proposed Rule Making, 11 FCC Rcd 7973 (1996), proposing the allotment of Channel 250A to Woodville, Florida, as that community's first local FM broadcast service. The Notice was issued in response to a petition filed by George Roberts d/b/a Anchor Communications ("Anchor"). Supporting comments were filed by Anchor, Alligator Alley Broadcasting Company, Inc., Woodville Broadcasting and Woodville Communications. St. Marks Broadcasting ("St. Marks") filed a counterproposal (RM-8873).²

2. St. Marks counterproposed the allotment of Channel 250A to St. Marks, Florida. According to St. Marks, the community of St. Marks is an independent, self-contained community in a rural area. In contrast, St. Marks contends that Woodville is not an independent community but merely a bedroom community of Tallahassee, Florida. St. Marks argues that Woodville is dependent upon Tallahassee for many of the characteristics associated with community life. St. Marks points out, however, that the community of St. Marks has a mayor and city council, post office and zip code and a fire fighting service. St. Marks indicates that there are numerous businesses associated with the community of St. Marks as well as a church and community center. In addition, St. Marks states that there are 14 radio stations licensed to communities in Leon County where Woodville is located and that the allotment of Channel 250A to Woodville would provide a fifteenth station in Leon County. St. Marks requests that the Commission deny Anchor's proposal for Woodville and instead grant its counterproposal to provide a first local service to St. Marks.

¹ The community of St. Marks, Florida, has been added to the caption.

² Public notice of the counterproposal was given on September 13, 1996. Report No. 2153 (RM-8873).

3. Anchor, in reply comments, disputes the statement of St. Marks that Woodville is a bedroom community of Tallahassee, Florida, and that allotment of Channel 250A to St. Marks, Florida, is superior to that proposed in the Notice. Anchor contends that St. Marks has failed to provide sufficient material to support this statement. Anchor argues that to be acceptable for allotment purposes, a community must present a geographical population grouping where the residents function as and conceive of themselves as residents of that community. According to Anchor, Woodville is a census designated place with its own fire department, post office and elementary school, churches, parks, banks and shopping centers. Anchor acknowledges that certain services, such as law enforcement, are provided by the county. Anchor points out, however, that the Commission does not require a municipality to be self-governing or to provide every public service on its own in order to merit community status for allotment purposes. Anchor takes the point of view that since the allotment would provide a first local service at either community, with both communities served by at least five full-time reception services, the Commission must base its decision on population and make the allotment of Channel 250A at the larger community of Woodville. According to Anchor, the allotment of Channel 250A at St. Marks with a population of 307 people will provide service to 25,845 people while the allotment of Channel 250A at Woodville with a population of 2,760 people will serve 168,872 people.

4. In reply comments, St. Marks continues to support the allotment of Channel 250A at St. Marks, Florida, arguing that the community of St. Marks is a community that merits an FM allotment while Woodville is a bedroom community that does not have the characteristics necessary to warrant an allotment. St. Marks believes that the general information listed in the petition filed by Anchor does not accurately describe the area referred to as Woodville, as Woodville residents identify with Tallahassee and depend on Tallahassee for many services. According to St. Marks, the community of St. Marks, unlike Woodville, is a vibrant community, with its own identity. St. Marks points out that 14 radio stations are licensed to communities in Leon County, which is where Woodville is located while Wakulla county, where St. Marks is located, has only station licensed to a community in the county. Therefore, St. Marks requests that the Commission allot Channel 250A to St. Marks as a first local service, providing a second radio station to Wakulla County rather than a first service to Woodville and a 15th station to Leon County.

5. A review of the proposals indicates that St. Marks and Woodville are both deserving of an FM channel. Although not requested, we note that Anchor and St. Marks have provided sufficient information establishing community status for allotment purposes for Woodville and St. Marks.³ In an effort to provide each community with its first local service, the staff performed a search to determine if alternate channels were available. The study indicates that Channel 250A is the only channel that can be allotted to either community. Our study also indicates that allotment of Channel 250A at Woodville will provide coverage to approximately three percent of the Tallahassee urbanized area while the allotment at St. Marks does not

³ See Kenansville, Florida, 10 FCC Rcd 9831(1995).

provide service to any part of the Tallahassee urbanized area. Our decision is guided by the allotment priorities as set forth in Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).⁴ The allotment of Channel 250A to Woodville or St. Marks would provide a first local service to either community, fulfilling priority (3). Therefore, our decision must be based on priority (4) - Other public interest factors. In this regard, we find that the community of Woodville (population 2,760 people) has a larger population than St. Marks (population 307).⁵ We also find that both Woodville and St. Marks receive service from fourteen AM and FM signals and are both considered to be well served. The channel at Woodville would serve 165,496 people and cover approximately 2,557 square kilometers (988 square miles) while the allotment at St. Marks would serve 29,820 people in a 1,789 square kilometer area (691 square miles). With regard to St. Mark's assertion that Woodville is merely an extension of Tallahassee and not a separate and distinct community, we feel that St. Marks has failed to provide sufficient evidence to support this argument.⁶ As each community receives ample reception service, we believe the public interest would be served by allotting Channel 250A to Woodville, Florida, since it could provide a first local aural transmission service to the more populous community. See Three Oaks and Bridgman, MI, 5 FCC Rcd 1004 (1990) and Brownstown, IN et al., 7 FCC Rcd 3173 (1992).

6. A staff engineering analysis has determined that Channel 250A can be allotted to Woodville, Florida, in compliance with the minimum distance separation requirements of the Commission's Rules provided there is a site restriction 11.7 kilometers (7.3 miles) east of the community.⁷ The site restriction will prevent a short spacing to Station WTBB, Channel 249C1, Bonifay, Florida.

7. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective September 29, 1997, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Woodville, Florida	250A

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

⁴ The priorities are: (1) First full-time aural service; (2) Second full-time aural service; (3) First local service; and (4) other public interest matters. [Co-equal weight given to priorities (2) and (3).]

⁵ The population figures are taken from the 1990 Census.

⁶ St. Marks provided a letter from one resident of Woodville stating that she considers Woodville to be a suburb of Tallahassee.

⁷ The coordinates for Channel 250A at Woodville are 30-17-56 and 84-07-40.

9. The window period for filing applications for Channel 250A at Woodville, Florida, will open on September 29, 1997, and close on October 30, 1997.
10. IT IS FURTHER ORDERED, That the counterproposal filed by St. Marks Broadcasting (RM-8873) requesting the allotment of Channel 250A at St. Marks, Florida, IS TERMINATED.
11. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to the following:

Linda J. Eckard
Lisa A. Williams
Roberts & Eckard, P.C.
1150 Connecticut Ave., Suite 1100
Washington, D. C. 20036

12. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process for Channel 250A at Woodville, Florida, should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau